

**REMARKS**

In response to the Final Office Action mailed November 15, 2007 (hereinafter "Final Action"), claims 1, 3, 21, 36, 45, 54 and 57 have been amended and claims 58-62 are newly added. No claims have been cancelled. Support for the instant amendments is provided throughout the as-filed Specification. Thus, no new matter has been added. Therefore, claims 1-49 and 51-62 are pending.

In view of the following comments, allowance of all the claims pending in the application is respectfully requested.

**Rejection under 35 U.S.C. § 102**

Claims 1-13, 16-27, 30-34, 36-41, 43, 45-47, 49, 51-53 and 55-57 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication No. 2004/0078424 to Yairi *et al.* ("Yairi"). Applicant disagrees with the propriety of this rejection. However, solely in an effort to expedite prosecution, Applicant has amended independent claims 1, 21, 36 and 45 to clarify some of the differences and to broaden some aspects of the claimed invention.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Independent claims 1 and 45 recite, *inter alia*, the feature of:

a means for transmitting information from the web service in response to the web service command to at least one other user.

Similarly, independent claim 21 recites:

transmitting information from the web service in response to the web service command to at least one other user.

Independent claim 36 recites:

transmitting information from the web service in response to the web service message to at least one other user.

Yairi fails to teach *at least* these features. For example, Yairi fails to teach transmitting information from a web service in response to a web service command to at least one other user. The Examiner, however, asserts that since Yairi allegedly teaches "... that IM/WS gateway 101 and mobile IM server 111 may be combined and their function performed by a single device (Para. 0024) ... that the prior art of Yairi does disclose wherein information received from the web service in response to the user command may be transmitted to at least one other user." [Final Action, pages 2-3, emphasis added]. Applicant disagrees. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis added). The Examiner has failed to do so.

For *at least* the foregoing reasons, the rejection of independent claims 1, 21, 36 and 45 under 35 U.S.C. § 102(e) over Yairi is improper and should be withdrawn. Dependent claims 2-13, 16-20, 22-27, 30-34, 37-41, 43, 46-47, 49, 51-53 and 55-57 are allowable because they depend from allowable independent claims 1, 21, 36 and 45, as well as for the additional features they recite.

### **Rejections under 35 U.S.C. § 103**

Claims 14-15, 28-29, 35, 42, 44 and 48 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Yairi in view of U.S. Patent Application Publication No. 2003/0105884 to Upton ("Upton"). Claim 54 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Yairi in view of U.S. Patent No. 7,216,043 to Ransom *at al.* ("Ransom"). Applicant disagrees with these propriety of these rejections *for at least* the reason that claims

14-15, 28-29, 35, 42, 44, 48 and 54 are allowable because they depend from allowable independent claims 1, 21, 36 and 45, as well as for the additional features they recite.

Further, neither Upton nor Ransom cure the deficiencies of Yairi. For example, the Examiner relies upon Upton as allegedly teaching a web service associated with an enterprise or legacy system. The relied upon portions of Ransom appear to teach pushing upgrade files and/or patches attached to an IM message to one or more electronic devices, such as intelligent electronic devices ("IEDs"), e.g., programmable logic controllers ("PLC's"), Remote Terminal Units ("RTU's"), electric/watt hour meters, protection relays and fault recorders, that are distributed throughout a power distribution system. [See e.g., Ransom, Abstract, col. 4, lines 43-48; col. 37, line 48 – col. 38, line 5; FIG. 16]. However, neither Upton nor Ransom teach transmitting information from the web service in response to a web service command (that is linked to a user command) to at least one other user.

For *at least* the foregoing reasons, the rejection of dependents claims 14-15, 28-29, 35, 42, 44 and 48 under 35 U.S.C. § 103(a) over Yairi in view of Upton, and claim 54 under 35 U.S.C. § 103(a) over Yairi in view of Ransom are improper and should be withdrawn.

#### **New claims**

New claims 58-62 are allowable because they depend from allowable independent claims 1 and 45, as well as for the additional features they recite.

Conclusion

All matters having been addressed and in view of the foregoing, Applicant respectfully requests the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant's representative remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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